

Serial No. **10/809,684**

Docket No. **LT-0055**

Amdt. dated December 5, 2007

Reply to Office Action of August 9, 2007

REMARKS/ARGUMENTS

Claims 1, 3-4, 6, 8, 10-15, 17-18, 20-24, and 27-30 are pending. By this Amendment, claims 1, 3-4, 6, 8, 10-15, 17-18, 20-24, and 27-30 are amended, claims 2, 5, 7, 9, 16, 19, 25-26, and 31-32 are canceled without prejudice or disclaimer. No new matter is added. Support for the claims can be found throughout the specification, including the original claims, and the drawings. Reconsideration in view of the above amendments and following remarks is respectfully requested.

The Examiner is thanked for the indication that claims 12, 26, and 32 contain allowable subject matter. The allowable features of claim 26 and 32, along with the features of intervening claims 25 and 31, have been added, respectively, to independent claims 20 and 27. Accordingly, claims 20 and 27 should be in condition for allowance, along with claims 21-24 and 28-30, which depend, respectively, therefrom. For the reasons set forth below, claim 12 has not been rewritten in independent form at this time.

The Office Action rejected claims 14-26 as allegedly being directed to non-statutory subject matter. Claims 25-26 have been canceled. Regarding claims 14-19, these claims have been amended to address the Examiner's comments. Regarding claims 20-24, these claims have been amended to remove the "means + function" language. Accordingly, the rejection should be withdrawn.

The Office Action rejected claims 1-11 under 35 U.S.C. §102(b) as being anticipated by the Replay Gain website (hereinafter "Replay Gain"). Claims 2, 5, 7, and 9 have been canceled. The rejection is respectfully traversed in so far as it applies to the pending claims.

Independent claim 1 recites a method for recording/managing audio level information, comprising partitioning an audio file into a header information area, an audio data area, and a tag information area; recording an audio level information in the tag information area, the audio level information indicating an output level of audio data to be reproduced; and recording an audio level flag information in the header information area, the audio level flag information indicating whether the audio level information has been recorded in the tag information area. Independent claim 6 recites a method for adjusting an output level of audio data, comprising receiving an audio file; checking audio level information recording in the received audio file; and adjusting an output level of audio data to be reproduced of the received audio file, on the basis of the checked audio level information, wherein the audio file is separated into a header information area, an audio data area, and a tag information area, and wherein the audio level information is stored in the tag information area and an audio level information flag is stored in the header information area. Replay Gain does not disclose or suggest all of such features, or the respective claimed combinations of independent claims 1 and 6.

Rather, Replay Gain merely teaches storing a track relative volume adjustment in a header area of the track. The Examiner refers to the ID3v2 standard; however, the standard ID3v2 also teaches storing information in a header area of a track or file.

Accordingly, the rejection of independent claims 1 and 6 over Replay Gain should be withdrawn. Independent claims 3-4 and 8, and 10-11, as well as objected to claim 12, are allowable over Replay Gain at least for the reasons discussed above with respect to independent claims 1 and 6, from which they respectively depend, as well as for their added features.

The Office Action rejected claims 20 and 23-25 under 35 U.S.C. §102(b) as being anticipated by Replay Gain in view of Winamp V2.6 screenshots (hereinafter “Winamp”). It is assumed for the purpose of this Amendment that the Examiner intended to reject these claims under 35 U.S.C. §103(a). This rejection is moot in view of the amendments discussed above.

The Office Action rejected claims 13-19, 21-22, and 27-31 under 35 U.S.C. §103(a) as being unpatentable over Replay Gain in view of Winamp. Claims 16, 19, and 31 have been canceled. The rejection of claims 21-22 and 27-30 is moot in view of the amendments discussed above. The rejection is respectfully traversed in so far as it applies to claims 13-15, 17, and 18.

Claim 13 is allowable over Replay Gain at least for the reasons discussed above with respect to independent claim 6, from which it depends, as well as for its added features. Winamp fails to overcome the deficiencies of Replay Gain, as it is merely cited for allegedly teaching playback of MP3 files.

Independent claim 14 recites a machine-readable storage medium containing instructions for adjusting an output level of audio data, the instructions, when executed in a digital audio system, causing the system to: search a recording medium for an audio file requested to be played, the recording medium storing a plurality of audio files; check audio level information recorded in the searched audio file; and adjust an output level of audio data to be reproduced of the searched audio file responsive to the checked audio level information, wherein the audio file is separated into a header information area, an audio data information area, and a tag information area, and wherein the audio level information is recorded in the tag information area and an audio level information flag is recorded in the header information area. Replay Gain does not disclose or suggest all of such features, or the claimed combination of independent claim 14. That is, as set forth above, Replay Gain merely teaches storing a track relative volume adjustment in a header area of the track. Further, Winamp fails to overcome the deficiencies of Replay Gain.

Accordingly, the rejection of independent claim 14 over Replay Gain and Winamp should be withdrawn. Dependent claims 15 and 17-18 are allowable over Replay Gain and Winamp at least for the reasons discussed above with respect to independent claim 14, from which they depend, as well as for their added features.

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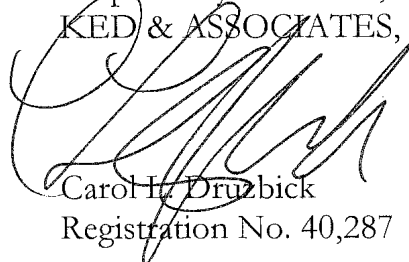
CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance. Favorable consideration and prompt allowance are earnestly solicited.

If the Examiner believes that any additional changes would place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney at the telephone number listed below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,
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